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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, JIMMY T

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/777,810	Applicant(s) SCHULTE, REINHOLD	
	Examiner Jimmy T Nguyen	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/12/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “drive unit” (claim 1, line 8); “an electric magnet” (claim 3, line 2); and “a mechanical bolt” (claim 4, line 2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to under 37 CFR 1.71 as not clearly describing the subject matter. On page 6, lines 31-32, the specification discloses “a magnetic coupling or a mechanical bolt could be released when the two stopper elements 40, 42 come into contact”. However, the specification does not disclose the critical inter-relationship between the magnetic coupling/ the mechanical bolt and other elements (i.e. the levers, the shaft, ...) of the press in order to show how the releasing/disengaging function is being operated when the two stop elements come into contact with each other.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1, line 10, see discussion in the objection to the specification above regarding the releasable function of the press.

Regarding claim 3, line 2, see discussion in the objection to the specification above regarding the releasable function of the electric magnet.

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Regarding claim 4, line 2, see discussion in the objection to the specification above regarding the disengageable function of the mechanical bolt.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected for being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted element is: “a spring (30) and an arm (36)” in order to support the limitation “rotation-resistantly mounted” as claimed. Examiner suggests that the claimed subject matter in claim 2 should be incorporated into claim 1 in order to overcome this rejection.

Regarding claim 1, line 10, the word “the” should be added before the word “shaft” in order to provide antecedent basis for the limitation “shaft” in the claim.

Regarding claim 2, line 5, there is no antecedent basis for “the second shaft” in the claim.

Regarding claim 3, line 6, there is no antecedent basis for “the toggle lever” in the claim.

Regarding claim 4, line 5, the speculating terminology such as “can be” is indefinite.

Regarding claim 4, line 6, there is no antecedent basis for “the toggle lever” in the claim.

Regarding claim 5, line 4, the word “the” should be added before the word “levers” in order to provide antecedent basis for the limitation “levers” in the claim.

Regarding claim 5, line 6, there is no antecedent basis for “the toggle lever” in the claim.

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Regarding claim 6, line 3, the word “the” should be added before the word “levers” in order to provide antecedent basis for the limitation “levers” in the claim.

Regarding claim 8, line 2, the word “the” should be added before the word “levers” in order to provide antecedent basis for the limitation “levers” in the claim.

Regarding claim 8, line 4, there is no antecedent basis for “the toggle lever” in the claim.

Regarding claim 9, line 2, the word “the” should be added before the word “levers” in order to provide antecedent basis for the limitation “levers” in the claim.

Regarding claim 9, line 4, there is no antecedent basis for “the toggle lever” in the claim.

Regarding claim 10, line 2, the word “the” should be added before the word “levers” in order to provide antecedent basis for the limitation “levers” in the claim.

Regarding claim 10, line 4, there is no antecedent basis for “the toggle lever” in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, as best as can be understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Bigun et al. (hereinafter “Bigun”) (US 4,034,666). Bigun discloses a toggle press comprising: first and second levers (10, 11) which are pivotably connected by means of a joint (fig. 1), the first lever having a free end adapted to connected to a pressing tool (D) and the

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second lever having a free end mounted on a shaft (6) adapted to be rotated by a drive unit (7-9), a spring system (16-17) operationally mounted to the second lever to provide a resistant to the second lever in order to achieve a rotation-resistant manner. The second lever (10) is disposed on a section of the shaft (6) contrived as an eccentric cam (fig. 3). Note that the second lever is not fixedly connected to the shaft; therefore the second lever and the shaft is considered to be releasably connected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bigun et al., in view of Bridges (US 3,763,689). Bigun discloses the invention substantially as claimed as set forth above except for a stopper element and a counter-stopper element. However, the patent to Bridges teaches a toggle press having a levers system (23, 25, 26, 27) having a stopper element (40) on one of the levers and a counter-stopper element (5) on a press frame (43) in order to limit primary motion of the levers system (col. 2, line 38). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Bigun with a stopper element and a counter-stopper element, as taught by Bridges, in order to limit primary motion of the levers system.

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Please note that claims 2-4 and 6-11 have not been rejected over prior art. However, in view of the issues under 35 USC 112 rejections and the objections to the specification as set forth above, the allowability of the claims can not be determined at this time.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,916,345 discloses a toggle press.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Nguyen whose telephone number is (571) 272-4520. The examiner can normally be reached on Mon-Thur 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272- 4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTNguyen
April 12, 2005


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